

Virginia Housing Commission

**Short-Term Rental
Work Group**

Common Interest Community Basics

July 14, 2016

Presented by

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**Common Interest
Community Associations**

■ **Planned Communities**

- Property Owners Association
- Homeowners Association
- Proprietary, Conservancy, Cluster

■ **Condominium**

- Horizontal Property Regime

■ **Cooperative**

■ **Timeshare**

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**Characteristics of
Community Associations**

■ **Automatic Membership**

■ **Contractual Relationship based on
Governing Documents**

■ **Individual Property Ownership**

■ **Common Area/Common Elements**

■ **Mandatory Assessments**

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Distinctions Between Community Associations Types

Who Owns the Common Area

- **Planned Community** – The Association, a nonstock corporation
- **Condominium** – Each Owner, based on common element interest allocation
- **Cooperative** – Corporation Owns Common Elements and Units

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3 Functions of Community Associations

- **Business**
- **Governance**
- **Community**

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Community Association Housing Statistics

Year	Communities	Housing Units	Residents
1970	10,000	.7 million	2.1 million
1980	36,000	3.6	9.6
1990	130,000	11.6	29.6
2000	222,500	17.8	45.2
2010	311,600	24.8	62.0
2015	338,000	26.2	68.0

Property owners associations account for about 51-55% of community associations; condominium communities account for 42-45%; and, cooperatives account for 3-4%.

Source: Foundation for Community Association Research. www.cairf.org

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Community Associations – By the Numbers

Community Associations Institute (CAI)
estimates

- **In the U.S. - in 2016, the number of community associations is between 342,000 and 344,000**
- **In Virginia -**
 - **8500 community associations**
 - **1,710,000 residents**

Source: Foundation for Community Association Research. www.caif.org

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Community Association Facts

- **Since 1970, one in every 3 new residential homes built in the United States is in a community association.**
- **Community associations range in size from 2-unit condominiums to large scale planned communities.**
- **Community associations are comprised of homes of all architectural styles.**

Source: Foundation for Community Association Research. www.caif.org

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Community Association Satisfaction Survey

- **By large majorities, most residents rate the overall community experience as positive.**
- **Residents say**
 - **Association board members serve the best interests of their communities.**
 - **Community managers provide valuable support to residents and their associations**
- **Residents support rules because rules protect and enhance property values.**

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Statutory Foundation

■ Federal Law

- Americans with Disabilities Act
- Fair Housing Act
- Telecommunications Act of 1996
- Federal Flag Act

■ Common Law

■ Local Ordinance

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Statutory Foundation

■ State Statutes

- Horizontal Property Act - § 55-79.1
- Condominium Act - § 55-79.39
- Property Owners' Association Act - § 55-508
- Real Estate Cooperative Act - § 55-424
- Real Estate Time Share Act - § 55-360
- Non-Stock Corporation Act - § 13.1-801
- Common Interest Community Statutes - § 55-528 and § 54.1-2345

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Condominium Instruments

Condominium

■ Declaration (Master Deed) and Exhibits

- Bylaws
- Common Element Interest Table
- Plats
- Plans

■ Rules and Regulations

■ Resolutions

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Governing Documents

Planned Community

- Declaration
- Articles of Incorporation
- Bylaws
- Architectural Guidelines
- Rules and Regulations
- Resolutions

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Virginia Constitution

Bill of Rights - Article I, Section 11.

That no person shall be deprived of his life, liberty, or property without due process of law; that the General Assembly shall not pass any law impairing the obligation of contracts.

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House Bill 812 Senate Bill 416

Amendment Addressing Covenants

D. The provisions of this chapter shall not be applied to limit or otherwise impinge upon contracts or agreements between or among individuals or private entities relating to the use of real property, including the provisions of condominium instruments of a condominium created pursuant to the Condominium Act, the declaration of a common interest community as defined in § 55-528, or the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act.

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Sample Leasing Restrictions

- Established in **recorded** documents

- Condominium Instruments -

- Declaration

- Bylaws

- Planned Community - Declaration

- Vary Substantially

- Rely on Local Ordinance

- Enhanced, in some respects, by rules

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Community Association Challenges

- Sense of Community

- Purchaser (home owner)
Expectations

- Retaining residential character of
community

- Reliance upon local ordinance and zoning

- Full time hosting vs. occasional hosting

- Short term rentals limit availability for
long term rentals

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Community Association Challenges

- Compliance with restrictive
covenants and Association rules

- Leasing

- Commercial Use

- Behavioral Issues - Parking, Noise,
Trash, Smoking

- Community standards -
maintenance, architectural

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More Challenges

- **Financial Impact**
 - Administration
 - Maintenance and repair costs
- **Owner Conflict – Inconsistent expectations**
- **Security**

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More Challenges

- **Impact on Property Values**
 - Added burden on common facilities and amenities
 - Owner vs. short term tenant perspective (financial interest)
- **Americans with Disabilities Act**
- **Fair Housing compliance**

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More Challenges

Mortgage Finance

- **Federal Housing Administration (FHA)**
 - Statutorily prohibits transient housing
 - No loans guaranteed in condominiums that permit rentals of less than 30 days
- **Freddie Mac and Fannie Mae**
 - Do not accept *condominium hotels*

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Approaches to Address Challenges

- **More rigorous compliance efforts**
- **Amend governing documents**
 - Amendment approval thresholds
 - Costly endeavor
 - Financial Resources
 - Volunteer and Management Resources
 - Process made uncertain by recent Virginia Supreme Court case

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Discussion

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